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February 7, 1995

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: Comments in WT Docket No. 94-148

Dear Mr. Caton:

Transmitted herewith on behalf of Pepper & Corazzini, L.L.P., is an original and ten (10) copies of its Comments in WT Docket No. 94-148. Should there be any questions concerning these comments, please communicate directly with the undersigned.

Sincerely,

  
Michael J. Lehmkuhl

Enclosure

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FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of

Reorganization and Revision of  
Parts 1, 2, 21 and 94 of the  
Rules to Establish a New Part 101  
Governing Terrestrial Microwave  
Fixed Radio Services

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WT Docket No. 94-148

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COMMENTS OF PEPPER & CORAZZINI, L.L.P.

Pepper & Corazzini, L.L.P., pursuant to Section 1.415 of the Commission's Rules, hereby submits its comments in response to the above-referenced Notice of Proposed Rulemaking ("NPRM") released December 28, 1994. The Commission is seeking public comment on proposals regarding the consolidation of rules for terrestrial microwave under Parts 21 and 94 into a new Part 101. These proposals include the use of a new electronic application form and a mandatory electronic filing procedure.

Pepper & Corazzini represents many microwave licensees currently authorized under both Part 21 and 94 who are located in many major markets throughout the country. In this regard, Pepper & Corazzini has had extensive involvement in preparing and filing applications under both Rule Parts. Pepper & Corazzini also has considerable experience in utilizing electronic technology in its practice. In 1994, for example, it was the first communications law firm in the country to establish a presence on the Internet. Accordingly, Pepper & Corazzini is pleased to have this opportunity to comment on the proposals regarding a new electronic filing procedure outlined in the NPRM.

Pepper & Corazzini agrees with the Commission that electronic filing would facilitate the processing of applications and keep the backlog of applications to a manageable level. The growth of the private microwave services industry has placed a tremendous strain on the resources of a small Commission staff. Everything that can be done to expedite the application process should be implemented and electronic filing represents an important step.

Pepper & Corazzini recommends, however, that the Commission proceed with caution in this area as many other services are contemplating the use of electronic filing. P&C has filed comments in the recent MDS Rulemaking (MM Docket 94-131) calling on the Commission to revive a proposal, originally put forth by the Common Carrier Bureau, to organize a Federal Advisory Committee to recommend Commission-wide standards and procedures for all services. Electronic filing is a radical shift from the previous paper filing procedures and many of the technical problems and questions that arise with such a system require both closer scrutiny and further consideration than are addressed in the instant proceeding.

Moreover, should the Commission decide to immediately move forward with its proposal, electronic filing should be voluntary. A voluntary system would allow the Commission, law firms and their clients an opportunity to make the necessary technical and financial adjustments in office technology, staff training, client education and allocation of necessary capital. The zeal of achieving a "paperless system" must be tempered by the limitations of technical and financial feasibility.

## **FORMATION OF A FEDERAL ADVISORY COMMITTEE**

Currently, the Commission as a whole has over 20 electronic filing initiatives under consideration<sup>1/</sup> and should consider resurrecting an earlier proposal of the Common Carrier Bureau ("CCB"), to organize a Federal Advisory Committee ("FAC") to assist the Wireless Technologies Bureau -- and the entire Commission -- in the development and implementation of an electronic filing system.<sup>2/</sup>

The CCB's proposal would have created a FAC under the Federal Advisory Committee Act, 5 U.S.C. Appendix 2 to provide recommendations to the Bureau in formulating rules and procedures with regard to:

1) designing the technical software necessary to receive, store and retrieve reports, applications and related filing; 2) studying the feasibility of establishing an on-line public access system to the database necessary to accomplish this goal, using, where possible, readily available, off-the-shelf software; 3) analyzing and identifying the costs of implementing and maintaining such a system, and the feasibility of recovering such costs through user fees or other means, in conjunction with the President's goal of providing efficient and easy to use public access to government information, and 4) designing and developing a final request for proposal that the Commission could use in implementing an electronic filing system.<sup>3/</sup>

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<sup>1/</sup> See, Remarks of Chairman Reed Hundt to the Connecticut Broadcasters Association Convention, October 28, 1994. See also, e.g., Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service, released December 1, 1994, MM Docket No. 94-131; Report and Order, In the Matter of Revision of Part 22 of the Commission's Rules Governing the Public Mobile Services, 9 FCC Rcd. 6513, December 28, 1994, WT Docket No. 94-148; Third Report and Order, In the Matter of Implementation of Sections 3(n) and 332 of the Communications Act -- Regulatory Treatment of Mobile Services, Rules Relating to SMR Systems, released September 23, 1994, GEN Docket 93-252, PR Docket Nos. 93-144, 89-553.

<sup>2/</sup> See, Public Notice, 9 FCC Rcd. 1293, March 7, 1994, CC Docket No. 94-18.

<sup>3/</sup> Id.

The FAC proposal, however, has lain fallow because, in the meantime, the Commission has shifted services out of CCB and into the other bureaus. The transition has left the CCB proposal stillborn. Such a FAC as originally proposed would ensure uniformity in the development of electronic filing procedures before piece-meal requirements threaten the adoption of incompatible systems and protocols. The wireless cable services have suffered for too long under administrative burden.

Creation of a FAC would also ensure ample broad based private and government sector participation providing well-rounded and valuable expert advice regarding end-user needs and desires. Input should be sought from a variety of private and government entities such as the National Telecommunications and Information Administration ("NTIA") which has had considerable experience in developing proposals related to the development of a National Information Infrastructure. Similarly, the Securities and Exchange Commission has had considerable experience in developing its Electronic Data Gathering Analysis, and Retrieval ("EDGAR") system.

There is already evidence of strong industry backing for the creation of an electronic filing FAC as evidenced by the comments in that proceeding. All twenty comments filed voiced unanimous support for a FAC composed of both public and private sector experts to provide recommendations. A FAC would be invaluable in providing recommendations on the following issues.

### Access

While law firms and technical firms file the majority of applications, many smaller wireless cable applicants and licensees prepare their own applications. Utilizing a technically elaborate and expensive system would impose an undue burden on these smaller operators foreclosing access to the application process. One option a FAC might consider is a process by which paper forms would be converted to an electronically compatible format.

Moreover, the software required to implement both creation and transmission of applications should utilize readily available, inexpensive off-the-shelf software. Indeed, Chairman Hundt has expressed his view that the Commission "should give [applicants] a cheap way to use the information highway to file documents with the Commission."<sup>4/</sup>

### Data Security

A FAC should also provide recommendations concerning the problem of computer security and the authentication of the identity of the parties filing in order to avoid forgeries and the use of aliases. Protection of confidential data and requests need to be addressed as well. Moreover, transmission validation is also an important factor to be considered to ensure that the filing received is identical to what the user sent. Date stamped validation should also be an important consideration. Input from other private

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<sup>4/</sup> Chairman Reed Hundt, speech before the Networked Economy Conference, September 26, 1994.

and government sector organizations who have had previous experience in this area would be especially valuable on this point.

### **Reliability**

Various types of VANs and other types of networks need to be evaluated in light of the high levels of demand that would be created -- especially during high volume traffic times created during filing Windows. Backup systems also need to be evaluated in the event of equipment failure.

Reliability and costs associated with the development of software for use by the Commission in analyzing application submissions should also be considered.

### **"User Friendliness"**

While the Commission proposes to use a Windows-based operating system, such software should accommodate cross platform environments such as Macintosh. Furthermore, electronic mailboxes or file transfer areas should be easy to access with standard communication software and protocols.

### **AT THE OUTSET, THE PROCESS SHOULD BE VOLUNTARY**

Mandating an electronic format may unduly burden clients and law firms alike, at least at the outset, where they attempt to familiarize themselves with the process and the technology. The financial costs associated with an immediate mandatory electronic filing

requirement would also be great in terms of acquiring the necessary technology and training staff.

With regard to non-profit institutions filing for microwave facilities, the Commission should likewise make the process voluntary. It is important to point out, however, that the financial costs are not the only burden an applicant faces. Many unsophisticated operators as well as non-profit entities are simply not equipped to make a radical transition.

Electronic filing and transfer standards cannot be as readily instituted due to the financial and other costs associated with training and upgrading office technology. Accordingly, Pepper & Corazzini recommends that in the event the commission rejects the idea of a FAC, a voluntary electronic filing procedure should be adopted whereby those applications that are filed on paper could be converted to an electronic format.

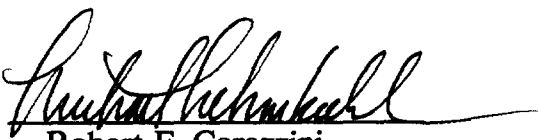


## **CONCLUSION**

Accordingly, and for the reasons stated above, Pepper & Corazzini, L.L.P., respectfully urges creation of a Federal Advisory Committee to study the matter of electronic filing more closely to encourage Commission-wide uniformity of standards and the consideration of factors such as access, security, reliability, and "user friendliness". Moreover, if no FAC would be created, the Commission should encourage the use of an electronic format through a voluntary system.

Respectfully submitted,

PEPPER & CORAZZINI, L.L.P.

By   
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